

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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YEMALIA AYALA, on behalf of minor A.A.,	:
	:
Plaintiff,	:
-v-	:
	:
COMMISSIONER OF SOCIAL SECURITY,	:
	:
Defendant.	:
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19 Civ. 3318 (PAE) (KNF)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

This case was referred to the Hon. Kevin N. Fox, United States Magistrate Judge. Dkts. 5, 17. Plaintiff seeks review of an administrative law judge’s (“ALJ”) May 2, 2018, decision finding minor A.A. ineligible for Supplemental Security Income benefits, pursuant to Title XVI of the Social Security Act, 42 U.S.C. §§ 1381–85. Dkt. 2. Defendant has filed an unopposed motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). Dkts. 13, 14. Before the Court is the January 3, 2020 Report and Recommendation of Judge Fox, recommending that the ALJ’s final decision be reversed with remand to the Commissioner for further administrative proceedings, so that the record can be developed concerning the plaintiff’s psychiatric impairments, including obtaining the plaintiff’s psychiatric treatment records. Dkt. 18 (“Report”). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

**DISCUSSION**

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection


has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at \*2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at \*4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Fox’s thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that “failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review,” Report at 4, the parties’ failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

### CONCLUSION

For the foregoing reasons, the Court ALJ’s final decision is reversed and remanded to the Commissioner for further administrative proceedings, pursuant to 42 U.S.C. § 405(g). The Clerk of Court is respectfully directed to terminate the motion pending at docket 13 and close this case.

SO ORDERED.

  
Paul A. Engelmayer  
United States District Judge

Dated: January 27, 2020  
New York, New York